UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,489	12/30/2003	Timothy C. Loose	47079-00243USPT	8735

30223   7590   05/23/2008
NIXON PEABODY LLP
161 N. CLARK STREET
48TH FLOOR
CHICAGO, IL 60601-3213

EXAMINER
POPHAM, JEFFREY D

ART UNIT	PAPER NUMBER
2137	

MAIL DATE	DELIVERY MODE
05/23/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

Advisory Action *Before the Filing of an Appeal Brief*	Application No. *10/748,489*	Applicant(s) LOOSE, TIMOTHY C.
	Examiner JEFFREY D. POPHAM	Art Unit 2137

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>12 May 2008</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

     Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

     NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: _____.

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/Emmanuel L. Moise/
Supervisory Patent Examiner, Art Unit 2137

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues that Jackson requires authentication of all of the software on a media device. However, Jackson contemplates use of less than all software on a device in authentication. This can be seen, for example, in paragraph 57, in that "One embodiment of the invention comprises the use of hash functions to calculate a reference hash value for selected data". Additionally, paragraph 80 teaches that "the message authentication codes are determined using the filenames associated with the program files, resulting in fast determination of the unique message authentication codes."

Regarding Burrows, it is first noted that Burrows was used in rejection of N being equal to a positive or negative integer excluding -1, 0, and 1 (claim 1). Jackson and Pease were used in rejection of the rest of the limitations, and are not argued. Burrows clearly teaches N being equal to a positive or negative integer excluding -1, 0, and 1 in the cited portions, and this is not argued either.

Applicant does argue that "Burrows does not deal with authentication (i.e. a proof of origin)". The Examiner is unsure what proof of origin has to do with the authentication of the claims. Claim 1, for example, is concerned with ensuring that data has not been changed, by comparing the result of hashing operations to a predetermined result. Jackson clearly teaches ensuring that data has not been changed by comparing the result of hashing operations to a predetermined result. Burrows furthers this by allowing Jackson's system to only use a subset of the data (such as every 16th or 64th value) in determining the result to be checked, thus increasing the speed of integrity checks in the system, since the combination need not check every bit of data in performing such authentication. It is well-known that checksums are used as a simple form of authentication check to determine whether or not data has been changed.

Applicant also argues that checksums are inherently insecure and one would not look to the teachings of Burrows in the combination. Since Burrows was not cited as disclosing a hash algorithm, Jackson clearly teaches a secure hash algorithm (paragraph 47, for example), Burrows teaches explicit use of secure hash algorithms (column 20, lines 49-63, for example), and since checksums are used as simple integrity checks within the field of authenticating data, this argument is deemed moot.

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